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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,071	11/30/2000	Charles David Johnson	BLD9-2000-0006US1	2728
7590	07/13/2005		EXAMINER	
David W. Lynch Crawford Maunu PLLC 1270 Northland Drive, Suite390 Mendota Heights, MN 55120			DIVINE, LUCAS	
			ART UNIT	PAPER NUMBER
			2624	

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/727,071

Applicant(s)

JOHNSON, CHARLES DAVID

Examiner

Lucas Divine

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-29.
Claim(s) withdrawn from consideration: _____.

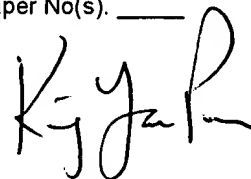
AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

KING Y. POON
PRIMARY EXAMINER



Attachment

1. With respect to applicant's 112 (1) argument that the specification is enabling regarding claims 1-29.

In reply: Examiner states in non-final rejection as repeated above "*it is not understood from the applicant's disclosure how this residual queue print engine is able to print all of the residual jobs.*" As applicant submits, the specification simply states that jobs are printed that are sent to the residual queue, thus stating any job that lands in the residual queue is successfully printed.

Jobs are placed in the residual queue when they don't match up with a named queue. The core reasons to be matched up with a named queue is either that the user or computer selected a printer or print queue where the job would for sure be printed (printer's ability to print the job) correctly in an efficient amount of time. Thus, the reasons for a job to **not** match up with a named queue are of wide variety, including, but not limited to:

- Jobs that were sent to the wrong server, so the current server does not have the correct named queue.
- A printer in the network went down, so the named queue(s) associated with it are down as well for the time being.
- Jobs could not be matched up with any printer of the named queues that could print the job correctly (for example, no color printer in the system for a color job or the printer can not print the required fonts or the required file types).
- Jobs that are not whole jobs or they contain errors and so therefore their queue name is in error as well.

- Jobs that are not prepared correctly for the present printing system, they might have a different job formatting for a different printing system (from an old OS, a different OS, or an old printer driver) and therefore do not match up with any named queues because the part of the file is different that is being compared.
- Jobs that the user does not remember or know the print queue relating to a printer they want the job printed on, so a guess is made or they ask someone who gives them bad information and examples of the like.

The examples are not limited to those above. The conclusion is that the jobs that land in the applicant's residual queue can be of a WIDE variety of print jobs and the applicant does not disclose how the invention takes into account the wide variety of jobs and then prints them all out. The claimed printing of the print jobs in the residual queue assumes the jobs are printed correctly, or else the invention would not have utility. Therefore, taking one instance for example, a job is routed to the residual queue because its named queue is not available. The job has font data that can only be printed on the printer that the unavailable named queue relates to. Therefore, the invention would print out the print job according to the residual print job filter (Fig. 3) and the job would not be outputted correctly because only the unavailable printer had those fonts loaded.

So for the residual queue to work, it must be able to print out every type of job listed above correctly because any of these types of jobs can land in the residual queue because there are many reasons why a job might not match up with a named queue.

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The applicant does not disclose *how the residual queue will take a wide variety of print jobs that are not accepted by the named queues and print them successfully as implied* and thus the 112, first paragraph rejection of enablement is maintained.

2. With respect to applicant's argument in regards to claim 19 under § 112 first paragraph.

In reply: A written description of the algorithm steps and/or code that provides for converting of the print jobs discussed on page 24, lines 20 – 24 of the application is required. Further explanation discussing what exactly the schemes and methodologies are and how they work to correctly format the data for printing is required to enable one skilled in the art to make and/or use this invention.

3. With respect to applicant's argument that Yellepeddy fails to disclose, teach or suggest "forwarding print jobs having a print queue designation that does not match a named print queue in the printing device to the residual queue."

In reply, applicant submits in the top paragraph of page 11, that Yellepeddy teaches the transient queue receives print jobs having designations matching a print queue that is disconnected or unavailable. When a print job is unavailable, the named print queue associated with the job is also unavailable as taught by Yellepeddy (step 408) and the job is forwarded to the transient queue. Thus, anytime a print queue is not found, it is assumed to be unavailable and all jobs that do not find a matched queue are forwarded/spooled to the transient/residual queue.

4. With respect to applicant's argument that the two references are uncombinable because they would change the principal operation of Hower.

In reply, applicant submits in the second to last paragraph, last sentence of page 11, that 'combining Yellepeddy with Hower would require the decision tree of Hower to be changed,

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thereby changing the principle of operation of Hower'. Examiner stated in non-final rejection, page 4, middle paragraph, that 'he (Hower) does suggest that alternate approaches can be used to handle erroneous print jobs (col. 9 line 20, wherein finishing option rules [shown in Fig. 8] can be reprogrammed)'. Therefore Hower suggests (also saying that the invention of Hower is highly flexible in line 21) modifications in the decision tree as would be done in the addition of the transient queue of Yellepeddy. Therefore, the principle operation of Hower would not change, just how erroneous print jobs or jobs with characteristics that currently don't match up with a queue are handled.

The premise of Yellepeddy is to prevent such errors by providing a transient queue to hold jobs until the appropriate queue can be decided on or found. Thus, by combining Yellepeddy with Hower, instead of an fault message appearing in steps 54, 58, 64..., the job would be spooled to a transient queue because no queue can be found that would print the job, thus the jobs are forwarded to print queue file 43 and would be placed in a new queue called the transient queue as taught by Yellepeddy. Then, if in the future a printer comes into the system that can print the jobs in the queue, the job waiting in the residual queue can be printed by the new printer.